

JM:TYH
F.# 2007R00182

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

FILED
CLERK'S OFFICE
DISTRICT COURT E.D.N.Y.
MAR 19 2009
BROOKLYN OFFICE

- - - - -X

UNITED STATES OF AMERICA

I N D I C T M E N T

- against -

HARRY K. KAHALE,
HAROLD RICHARD GRAHAM,
GREGORY C. SCARLATO and
MITCHELL REISMAN,

Cr. No. **159**
T. 18, U.S.C., §§ 98
1341, 1349, 2 and 3551
et seq.; T. 28, U.S.C.,
§ 2461)

Defendants.

SIFTON

- - - - -X

THE GRAND JURY CHARGES:

SIFTON
REYES, M.J.

I N T R O D U C T I O N

At all times relevant to this Indictment, unless
otherwise indicated:

1. B.I.M. Mining Corp. (hereinafter "B.I.M.") was a
Nevada corporation located at 2235 East Flamingo Road, Las Vegas,
Nevada.

2. Metro Group and Thrift (hereinafter "Metro") was a
New Jersey corporation located at 2540 Shady Nook Road,
Slatington, Pennsylvania.

3. Alliance Group and Brokerage LLC (hereinafter
"Alliance") was a New Jersey corporation located at 2540 Shady
Nook Road, Slatington, Pennsylvania.

4. The defendant HARRY K. KAHALE was the president, chief executive officer and treasurer of B.I.M.

5. The defendant HAROLD RICHARD GRAHAM was the secretary and a director of B.I.M.

6. The defendant GREGORY C. SCARLATO, individually and through his companies Metro and Alliance, acted as an agent of B.I.M. by soliciting investments.

7. The defendant MITCHELL REISMAN acted as an agent of B.I.M. by soliciting investments.

8. Investor No. 1 and Investor No. 2, B.I.M. investors, are individuals whose identities are known to the Grand Jury.

COUNT ONE

(Conspiracy to Commit Mail and Wire Fraud)

9. Paragraphs 1 through 8 are realleged and incorporated by reference.

10. In or about and between 2003 and 2008, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the defendants HARRY K. KAHALE, HAROLD RICHARD GRAHAM, GREGORY C. SCARLATO and MITCHELL REISMAN, together with others, did knowingly and intentionally conspire to devise a scheme and artifice to defraud customers of B.I.M., and to obtain money and property from customers of B.I.M. by means of materially false and fraudulent pretenses, representations and promises, and for the purpose of executing that scheme and

artifice, (a) to cause mail matter to be delivered by the United States Postal Service, and (b) to transmit and cause to be transmitted by means of wire communication in interstate commerce writings, signs, signals and sounds, contrary to Title 18, United States Code, Sections 1341 and 1343.

11. It was a part of the conspiracy that the defendants HARRY K. KAHALE, HAROLD RICHARD GRAHAM, GREGORY C. SCARLATO and MITCHELL REISMAN informed investors that B.I.M. possessed mineral rights to gold from mines located in various places outside of the United States. Further, they conveyed, in substance, that the gold required processing and refinement before it could be sold, and they needed investors to pay for the processing and refinement.

12. It was a further part of the conspiracy that the defendants HARRY K. KAHALE, HAROLD RICHARD GRAHAM, GREGORY C. SCARLATO and MITCHELL REISMAN issued to B.I.M. investors, in exchange for their money, documents identified as "gold delivery certificates." The gold delivery certificates typically bore maturity dates approximately five to twelve months after the date of issue, and promised investors large sums of money upon maturity.

13. It was a further part of the conspiracy that, upon the maturation of the gold delivery certificates, the defendants HARRY K. KAHALE, HAROLD RICHARD GRAHAM, GREGORY C.

SCARLATO and MITCHELL REISMAN sent the investors letters thanking them for their patience and stating, in substance, that B.I.M. had experienced numerous delays, that B.I.M. was close to completion of the refinement process and that the gold delivery certificates would be redeemed soon.

14. It was a further part of the conspiracy that the defendants HARRY K. KAHALE, HAROLD RICHARD GRAHAM, GREGORY C. SCARLATO and MITCHELL REISMAN used money investors paid for B.I.M.'s gold delivery certificates for the defendants' own personal expenses.

(Title 18, United States Code, Sections 1349 and 3551 et seq.)

COUNTS TWO THROUGH FIVE
(Mail Fraud)

15. Paragraphs 1 through 8 and 11 through 14 are realleged and incorporated by reference.

16. In or about and between 2003 and 2008, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the defendants HARRY K. KAHALE, HAROLD RICHARD GRAHAM, GREGORY C. SCARLATO and MITCHELL REISMAN, together with others, did knowingly and intentionally devise a scheme and artifice to defraud customers of B.I.M., and to obtain money and property from customers of B.I.M. by means of materially false and fraudulent pretenses, representations and

promises, and for the purpose of executing that scheme and artifice, did place and cause to be placed in a post office and authorized depository for mail matter, matters and things to be sent and delivered by the United States Postal Service, specifically, letters to investors in B.I.M., as follows:

COUNT	APPROXIMATE DATE OF MAILING	DESCRIPTION OF MATTER	POINT OF ORIGIN	DESTINATION
TWO	November 13, 2007	Letter mailed to Investor No. 2 updating status on certificate redemption	2235 East Flamingo Road Las Vegas, Nevada	Flushing, New York
THREE	July 18, 2007	Letter mailed to Investor No. 1 updating status on gold delivery certificate	2235 East Flamingo Road Las Vegas, Nevada	Glen Cove, New York
FOUR	October 3, 2006	Letter mailed to Investor No. 2 updating status on investment	2235 East Flamingo Road Las Vegas, Nevada	Flushing, New York
FIVE	March 24, 2006	Letter mailed to Investor No. 2 updating status on gold certificate	2235 East Flamingo Road Las Vegas, Nevada	Flushing, New York

(Title 18, United States Code, Sections 1341, 2 and 3551 et seq.)

CRIMINAL FORFEITURE ALLEGATION

17. As the result of committing one or more of the offenses of mail fraud alleged in Counts Two through Five of this Indictment, in violation of Title 18, United States Code,

Sections 1341 and 2, the defendants HARRY K. KAHALE, HAROLD RICHARD GRAHAM, GREGORY C. SCARLATO and MITCHELL REISMAN shall forfeit to the United States, pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c), which require any person convicted of such offense(s) to forfeit any property constituting or derived from proceeds obtained directly or indirectly as a result of such offense(s), including but not limited to, a sum of money up to a value of not less than \$1,040,000 in United States currency, representing the amount of proceeds obtained as a result of the scheme described in the above-listed offenses.

18. If any of the above-described forfeitable property, as a result of any act or omission of the defendant:

(a) cannot be located upon the exercise of due diligence;

(b) has been transferred or sold to, or deposited with, a third person;

(c) has been placed beyond the jurisdiction of the Court;

(d) has been substantially diminished in value; or

(e) has been commingled with other property that cannot be subdivided without difficulty;

it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p) to seek forfeiture of any other

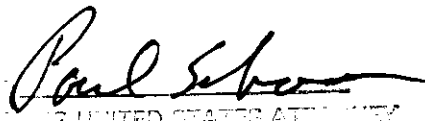
property of said defendants up to the value of the above
forfeitable property.

(Title 18, United States Code, Section 981; Title 28,
United States Code, Section 2461)

A TRUE BILL


FOREPERSON

BENTON J. CAMPBELL
UNITED STATES ATTORNEY
EASTERN DISTRICT OF NEW YORK


UNITED STATES ATTORNEY
EASTERN DISTRICT OF NEW YORK

UNITED STATES DISTRICT COURT

EASTERN DISTRICT of NEW YORK
Criminal Division

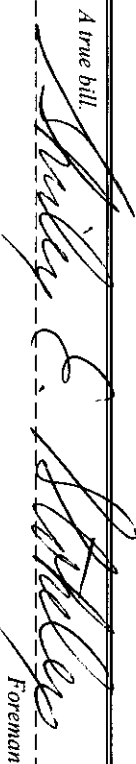
THE UNITED STATES OF AMERICA
V.
HARRY K. KAHALE, HAROLD RICHARD GRAHAM,
GREGORY C. SCARLATO and MITCHELL REISMAN,

Defendants.

INDICTMENT

(T. 18, U.S.C., §§ 981, 1341, 1349, 2
and 3551 et seq.; T. 21, U.S.C., 2461)

A true bill.


Foreman

Filed in open court this _____ day,

of _____ A.D. 20 _____

Clerk

Bail, \$ _____

AUSA Tanya Y. Hill, (718) 254-6144

NEW YORK FEDERAL COURT

INFORMATION SHEET

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.

★ MAR 19 2009

BROOKLYN OFFICE

USAO# 2007R00182

CR 09

159

1. Title of Case: United States v. Harry K. Kahale, Harold Richard Graham, Gregory C. Scarlato and Mitchell Reisman

2. Related Magistrate Docket Number(s) _____

None (X)

SIFTON, J

3. Arrest Date: _____ **REYES, M.J**

4. Nature of offense(s): ☒ Felony
☐ Misdemeanor

5. Related Cases - Title and Docket No(s). (Pursuant to Rule 50.3 of the Local E.D.N.Y. Division of Business Rules): None

6. Projected Length of Trial: Less than 6 weeks (X)
More than 6 weeks ()

7. County in which crime was allegedly committed: Queens County (Pursuant to Rule 50.1(d) of the Local E.D.N.Y. Division of Business Rules)

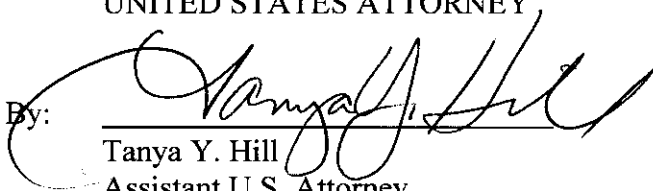
8. Has this indictment/information been ordered sealed? () Yes (X) No

9. Have arrest warrants been ordered? (X) Yes () No

10. Is a capital count included in the indictment? () Yes (X) No

BENTON J. CAMPBELL
UNITED STATES ATTORNEY

By:


Tanya Y. Hill
Assistant U.S. Attorney
718-254-6144